

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 290 OF 2019
WITH
CIVIL APPLICATION NO. 344 OF 2019**

M/s. Ravi Development Thr.
Its partners, Shri. Jayesh T.
Shah, Thr. COA. Shri. Kanhayalal
R. Gupta

...Appellant

V/s.

Mr. Shravan Shaniwar Patil
and Ors.

... Respondents

...

Senior Advocate with Mr. A.Y. Sakhare i/by. Mr. Abdul
R. Shaikh, for the appellant.

Mr. Viral K. Rathod, Advocate for respondents no.14
and 15.

CORAM : SANDEEP K. SHINDE J.

DATE : MONDAY, 2ND MAY, 2022.

P.C. :

1. Heard learned Counsel for the parties.
2. This Appeal from Order under Order 43 Rule 1(r) of the Civil Procedure Code, challenges the order dated 21st August, 2018 passed in Special Civil Suit No.141/2016,

instituted by the appellant, whereby the learned Civil Judge, Senior Division, Thane declined the interim order, that was sought by the appellant-plaintiff therein.

3. I have perused the impugned order. There is no reflection in the order about the nature of application and averments made therein. The order, without reasons, is no order in the eye of law and therefore it cannot survive. Time and again, different High Courts as well as Supreme Court, has indicated, recording of reasons while deciding rights of the parties cannot be dispensed with. Solely on the ground that, order is bereft of reasons, impugned order dated 21st August, 2018 is set aside. The learned Civil Judge Senior Division, Thane is directed to rehear the application of the plaintiff moved in Special Civil Suit No.141/2016 after affording an opportunity of hearing to the respective parties. It goes without saying that, this Court has no occasion to go into the merits. As such, the learned Civil Judge Senior Division, Thane shall decide the application, below Exhibit-5, in accordance with law and shall make an endeavour to decide the same, before 30th August, 2022. As a result, the impugned order dated 21st August, 2018 in Special Civil Suit

No.141/2016 is quashed and set aside. The Appeal is partly allowed in the aforesaid terms.

4. Parties to the Appeal shall appear before the trial Court on 22nd June, 2022, whereafter the learned trial Court shall take up application, Exhibit-5 for hearing and make an endeavour to decide the same in accordance with law, preferably before 30th August, 2022, without being influenced by the impugned order or by the order passed by this Court. Appeal, alongwith all pending applications therein are disposed of in the aforesaid terms.

NEETA
SHAILESH
SAWANT

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NEETA SHAILESH
SAWANT

Date: 2022.05.05
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(SANDEEP K. SHINDE, J.)